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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**FATHERS & DAUGHTERS NEVADA,
LLC,**

Plaintiff,

v.

LINGFU ZHANG,

Defendant.

Case No.: 3:16-cv-01443-SI

DECLARATION OF WICKSTROM
IN SUPPORT OF:
PLAINTIFF'S RESPONSE IN
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT

DECLARATION OF MICHAEL WICKSTROM

Under penalty of perjury, I, MICHAEL WICKSTROM, hereby state as follows:

1. I am Senior Vice President of Royalties for Voltage Pictures
(www.voltagepictures.com) a producer of the motion picture *Fathers & Daughters*. I personally
oversee the royalties and licensing of the motion picture *Fathers & Daughters* for Fathers &
Daughters Nevada, LLC ("F&D") and Voltage Pictures.

2. All matters in this declaration are submitted through personal knowledge and
belief.

About *Fathers & Daughters* and Fathers & Daughters Nevada, LLC

3. Fathers & Daughters Nevada, LLC / F&D is a special purpose entity ("SPE") formed in 2013 to develop and produce the motion picture *Fathers & Daughters*, which was released in 2015.

4. *Fathers & Daughters* is a drama directed by Gabriele Muccino, which stars Russell Crowe, Amanda Seyfried, Kylie Rogers and Jane Fonda, among others. In the movie, Russell Crowe's character is a Pulitzer-winning writer struggling with being a widower and father after a mental breakdown. 27 years later, his grown daughter, played by Amanda Seyfried, struggles to forge connections of her own. The Motion Picture has significant value and was created and produced at considerable expense.

Harms of Piracy

5. As a part of my duties for Voltage Pictures, I oversee the anti-piracy efforts of affiliated SPE's and the effects on motion pictures produced by Voltage Pictures, including the licensing, royalties and anti-piracy efforts of F&D.

6. The impacts and harms of piracy are difficult to quantify. This is because it requires assumptions to be made about those infringers who would have purchased an authorized copy of a work had an unauthorized copy not been made available on Bit Torrent. Although difficult to quantify, it is well known that piracy costs the motion picture industry billions of dollars every year.

7. Although my background was originally in the music industry, I left the music industry because of Napster and the widespread piracy in that industry. There were intense layoffs at Warner, Universal and other companies because profits were being eroded and many

of those companies did not have theme parks and other revenue streams to offset the enormous losses caused by piracy.

8. Back in the 1980's, the Internet was slower and piracy primarily impacted the music industry because music files were smaller and easier and faster to obtain. At that time, motion pictures digital files were still too large to be easily pirated.

9. Now, with faster Internet speeds and BitTorrent, I am seeing a parallel with the larger motion picture files. We are watching our margins get squeezed as expenses continue to rise, and yet piracy continues to undercut our revenues.

10. Much of the motion picture industry now relies on video on demand for revenue. However, even this revenue stream is greatly impacted by piracy, perhaps even more than the theatrical revenues.

11. Due to piracy, we have seen 30-40% drops in revenues from video on demand.

Anti-Piracy Efforts

12. Often a title is provided to a distributor with minimum guarantees, but when the title is pirated, many distributors respond with a demand for reduction in the minimum guarantee, or some other assurance that F&D is fighting the piracy, such as the transmission of DMCA notices to Internet Service Providers and, when necessary, commencement of litigation against infringers. Simply put, to support our distributors and our agreements with them, we must fight piracy and we must be proactive.

13. In this case, both 'Distributor 1' and 'Distributor 2' are well aware that F&D has never permitted the distribution of its copyrighted works on BitTorrent. This is because such worldwide unauthorized distribution harms F&D, Voltage Pictures *and* each distributor. This point is underscored in the distribution agreement with Distributor 2. The agreement expressly

states that F&D intends to legally pursue infringers who pirate *Fathers & Daughters* and such responsibility is reserved to F&D to protect the interests of Fathers & Daughters, 'Distributor 1' and 'Distributor 2.'

14. In licensing the motion picture *Fathers & Daughters*, F&D licenses different rights to different distributors, and often for different time frames based on manner of distribution and geographic area.

15. For example, the license to 'Distributor 2' (Exhibit E) is limited to the United States of America and its territories ("Territory"). Exhibit E, p. Sec. 4. a. This is to permit other licenses to parties that might distribute in Japan, Europe and other countries.

16. To protect F&D's ability to license to other parties in other geographic areas and to comply with the terms of all licenses granted, any rights licensed to 'Distributor 2' are limited with specific requirements such as those in Exhibit E, p. 7, Sec. 7, d. ii, "Access Security."

17. To ensure the geographical limitation are complied with, the license agreement requires 'Distributor 2' to use geo-blocking technology "to ensure that accessing, streaming or downloading of the Picture is limited solely to end users whose habitual residence is verifiably located within the Territory and to computers whose Internet addresses are verifiably located with the Territory..." Exhibit E, p. 7, Sec. 7, d. iii.

18. 'Distributor 2' rights are even further limited to means of distribution that "incorporate all commercially reasonable and current DRM [Digital Rights Management] technology and anti-circumvention technology that continually restricts unauthorized copying, accessing, streaming or downloading..." Exhibit E, p. 7, Sec. 7, d. iv.



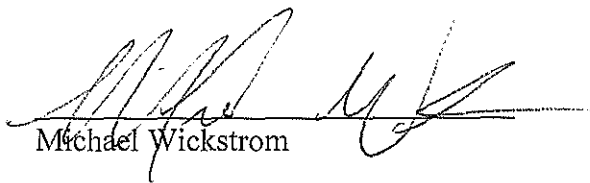
19. These limitations of the rights licensed to 'Distributor 2', and reciprocal reservations to F&D, are critical to protect the rights of F&D and its ability to license to others in other geographic areas and to protect F&D's right to license the work in other reserved manners.

20. The BitTorrent technology used by the Defendant does not have any security measures, including geo-blocking and DRM. As such, this form of distribution was never authorized, licensed, and has been specifically reserved to F&D because any such license would cause F&D irreparable harm and be contrary to every other license for the motion picture.

21. To be clear, neither Voltage nor Fathers & Daughters, LLC has ever granted any third party the right to the worldwide distribution of its works on BitTorrent or any other peer-to-peer file sharing network such as was used by the Defendant. A conveyance of that right would irreparably harm all licensing and licensed parties.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED October 26, 2017


Michael Wickstrom